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| 09/823,785      | 03/29/2001  | J. Don Dayley        | 10003673-1          | 6400             |

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
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EXAMINER

LASTRA, DANIEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,785

Applicant(s)

DAYLEY, J. DON

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-19 have been examined. Application 09/823,785 (METHOD FOR PERSONALIZED DRIVE-THRU SERVICE) has a filing date 03/29/2001

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCall et al (U.S. 6,152,591) in view of Herz et al (U.S. 6,571,279).

As per claim 1, McCall teaches:

A method for providing customized menu service for a drive-thru customer in a vehicle, the customer making menu selections from a main menu the method comprising the steps of:

creating a customer profile corresponding to said unique customer identity code (see column 9, lines 60-67);

recording the user menu selections from the main menu during said first and subsequent visits in said customer profile (see column 10, line 25 – column 11, line 14);

retrieving said customer profile corresponding to said unique customer identity code (see column 9, line 33 – column 10, line 10);

Art Unit: 3622

creating a custom menu from said customer profile; and, displaying said custom menu to fine customer during said subsequent visits (see column 10, line 25 – column 11, line 14).

McCall fails to teach scanning a unique customer identity code from a machine readable identity means attached to the customer vehicle during a first visit to the drive-thru; and scanning said unique identity code from said machine readable identity means during subsequent visits to the drive-thru. However, Herz teaches a system that identifies users by their vehicles' license plates and uses this information to target advertisements to the users (see abstract and column 1, lines 15-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall would customize a menu selection to users based upon identifying the users by their vehicles license plates, as taught by Herz. This feature would target advertisements to users without the users need to input manual identification.

As per claim 2, McCall and Herz teach:

A method as defined by claim 1 wherein said machine readable identity means comprise a license plate, and said unique customer identity code comprises a license plate number. The same rejection applied to claim 1 is applied to claim 2.

As per claim 3, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein said machine readable identity means comprise a machine readable badge. However, Herz teaches a system that identify users based upon machine readable badge (see column 3, lines 1-9).

Art Unit: 3622

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall drive-thru system would identify users by using the users machine-readable badges. This feature would target advertisements to users without the users need to input manual identification.

As per claim 4, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein said machine-readable identity means comprise a machine readable bumper sticker. The same rejection applied to claim 3 is applied to claim 4.

As per claim 5, McCall and Herz teach:

A method as defined by claim 1 further comprising the steps of: using the customer menu selections from said first visit to create a suggested new item list, and, displaying said suggested new item list to the customer during said second visit (see McCall column 10, line 25 – column 11, line 14).

As per claim 6, McCall and Herz teach:

A method as defined by claim 1 but fails to teach wherein said step of scanning a unique customer identity code further comprises scanning said machine readable identity means attached to the customer vehicle using a scanning means comprising an electronic sensing device capable of emitting light rays and receiving reflections of said emitted rays, said electronic sensing device being capable of detecting characters (see abstract).

As per claim 7, McCall and Herz teach:

A method as defined by claim 1 wherein said step of displaying said custom menu comprises displaying said custom menu using display means proximate to the main menu (see McCall column 10, lines 35-40).

As per claim 8, McCall and Herz teach:

A method as defined by claim 1 wherein said method further comprises the step of providing a custom marketing offer with said custom menu (see McCall column 11, lines 32-65).

As per claim 10, McCall and Herz teach:

A method as defined by claim 8 wherein said step of providing a custom marketing offer with said custom menu comprises offering a discounted purchase price on an item not on said custom menu (see column 11, lines 32-65).

As per claim 11, McCall and Herz teach:

A method as defined by claim 1 wherein said method further comprises the step of recording a time value corresponding to the customer menu selections made during said first visit (see column 11, lines 49-65).

As per claim 12, McCall and Herz teach:

A method for providing customized menu service to a drive-thru customer in a vehicle, the customer making menu selections from a main menu, the method comprising the steps of:

scanning a license plate number from the customer vehicle with scanning means during a first visit to the restaurant;

creating a customer profile corresponding to said license plate number;

recording the user menu selections from the main menu made during said first visit in said customer profile;

recording a time value corresponding to the time the customer menu selections are made in said customer profile;

scanning said license plate number from the customer vehicle during each of a plurality of subsequent visits to the drive-thru with said scanning means;

recording menu selections made by the customer during said each of a plurality of subsequent visits in said customer profile;

creating a custom menu using the menu selection items stored in said customer profile;

creating a custom marketing offer for the customer using the menu selection items stored in said customer profile; and, displaying said custom menu and said custom marketing offer to the customer during said each of a plurality of subsequent visits to the restaurant. Claim 12 contains the same limitations as claims 2, 8, and 11 therefore the same rejection is applied.

As per claim 13, McCall teach:

A method for providing a custom menu to a drive-thru customer in a vehicle making menu selections, the method comprising the steps of:

comparing said customer identity code to a plurality of existing unique customer identity codes on an existing customer list to determine whether said unique customer identity code matches any of said plurality of existing unique customer identity codes (see column 9, lines 5-67);

categorizing the customer as a new customer if said unique identity code does not match any of said existing unique customer identity codes (see column 9, lines 5-69);

entering said unique customer identity on said existing customer list if the customer is categorized as a new customer (see column 9, lines 5-67);

creating a unique customer profile corresponding to said unique customer identity code if the customer is categorized as a new customer (see column 9, lines 5-67);

storing the customer menu selections made by said new customer in the customer profile for future retrieval (see column 9, lines 5-67);

categorizing said customer as an existing customer if said unique customer identity code matches any of said existing unique customer identity codes (see column 9, lines 5-67);

retrieving a customer profile corresponding to said unique customer identity if the customer is categorized as an existing customer (see column 9, lines 5-67);

creating a custom menu from said customer profile if the customer is categorized as an existing customer, said custom menu comprising previous selection items made by said existing customer (see column 9, lines 5-25; column 10, lines 10-60);

displaying said custom menu to said existing customer (see column 10, line 40 – column 11, line 14);

recording menu selections made by said existing customer in said customer profile (see column 9, lines 60-67); and,



storing said customer profile for said existing customer for future retrieval (see column 9, line 60 – column 10, line 10).

McCall fails to teach scanning a unique customer identity code from a machine readable identity means attached to the customer vehicle. However, the same rejection applied to claim 1 is applied to claim 13.

As per claim 14, McCall and Herz teach:

A method as defined by claim 13, but fails to teach wherein said machine-readable identity means comprise a license plate. However the same rejection applied to claim 2 is applied to claim 14.

As per claim 15, McCall and Herz teach:

A computer program product for providing a custom menu to a drive-thru customer in a vehicle making menu selections from a main menu, the program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

cause scanning means to scan a unique customer identity code from a machine readable identity means attached to the customer vehicle during a first visit to the drive-thru;

create a customer profile corresponding to said unique customer identity code;

record the user's menu selections from the main menu during said first visit in said customer profile;

scan said unique customer identity code from said machine readable identity means during a second visit to the drive-thru;

Art Unit: 3622

create a custom menu from said user menu choices stored in said customer profile; and,

display said custom menu to the customer during said second visit to the drive-thru. Claim 15 contains the same limitations as claim 1 therefore the same rejection is applied.

As per claim 16, McCall and Herz teach:

A computer program product as defined by claim 15 wherein said machine readable identity means attached to the customer vehicle comprises a license plate. Claim 16 contains the same limitations as claim 2 therefore the same rejection is applied.

As per claim 17, McCall and Herz teach:

A computer program product for providing customized menu service to a restaurant drive-thru customer in a vehicle making menu selections from a main menu, the program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

scan a license plate number from the vehicle during a visit to the restaurant;

create a customer profile corresponding to said scanned license plate number;

record the user menu selections from the main menu made during said visit in said customer profile;

scan said license plate number from the vehicle during each of a plurality of subsequent visits to the restaurant;

record menu selections made by the customer during said subsequent visits to the restaurant in said customer profile;

create a custom menu from said customer profile, said custom menu comprising menu selection items stored in said customer profile; and, display said custom menu to the customer during said subsequent visits to the restaurant. Claim 17 contains the same limitations as claim 1 therefore the same rejection is applied.

As per claim 18, McCall and Herz teach:

A computer program product for providing a custom menu to a drive-thru customer in a vehicle making menu selections, the computer program product utilizing scanning means comprising an electronic sensor for emitting light rays and interpreting images from the reflections of the emitted rays, the computer program product comprising a computer usable medium having machine readable program code embodied in the medium that when executed causes a computer to:

cause the scanning means to scan a unique customer identity code from a machine readable identity means attached to the customer vehicle;

compare said unique customer identity code to a plurality of existing unique customer codes on an existing customer list stored in a data repository connected to the computer to determine whether said unique customer identity code matches any of said plurality of existing unique customer identity codes;

categorize the customer as a new customer if said unique customer identity code does not match any of said existing unique customer identity codes;

add said unique customer identity code to said existing customer list if the customer is categorized as a new customer;

create a customer profile corresponding to said unique customer identity code if the customer is categorized as a new customer;

record the customer menu selections made by said new customer in said customer profile;

store said customer profile in said data repository for future retrieval;

categorize the customer as an existing customer if said unique customer identity code matches any of said existing unique customer identity codes from said existing customer list;

retrieve a customer profile corresponding to said unique customer identity code from said data repository if the customer is categorized as an existing customer;

create a custom menu comprising previous customer menu selection items stored in said customer profile if said customer is categorized as an existing customer;

display said custom menu to said existing customer on display means proximate said main menu board; and,

record the customer menu selections made by said existing customer in said customer profile;

store said customer profile in said data repository for future retrieval. Claim 18 contains the same limitations as claims 6, 7 and 13 therefore the same rejection is applied.

As per claim 19, McCall and Herz teach:

A computer program product as defined by claim 18 wherein said machine readable identity means comprise a license plate, and wherein said unique customer identity code comprises a license plate number. Claim 19 contains the same limitations as claim 14 therefore the same rejection is applied.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCall et al (U.S. 6,152,591) in view of Herz (U.S. 6,571,279) and further in view of Storey (U.S. 6,578,012).

As per claim 9, McCall and Herz teach:

A method as defined by claim 8 but fails to teach wherein said step of providing a custom marketing offer with said custom menu comprises the steps of:

awarding points to the customer based on customer menu selections during said first and subsequent visits; storing a total number of said points in said customer profile; and displaying said total number of points with said custom menu during said subsequent visits. However, Storey teaches a system that grants reward points based upon customers' purchase transactions (see column 5, lines 56-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that McCall and Herz would grant reward points to customers based upon customers' purchase transactions, as taught by Storey. The grant purchase rewards would serve as an incentive to users, as users would be able to redeem prizes with the earned incentive points.

### ***Conclusion***

Art Unit: 3622

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

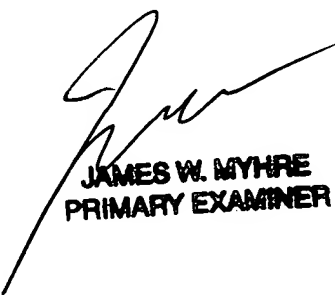
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

September 2, 2004

  
JAMES W. MYHRE  
PRIMARY EXAMINER